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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

<p>TYCO HEALTHCARE GROUP LP d/b/a VNUS MEDICAL TECHNOLOGIES, Plaintiff, vs. BIOLITEC, INC., DORNIER MEDTECH AMERICA, INC., and NEW STAR LASERS, INC. d/b/a COOLTOUCH, INC., Defendants.</p>	<p>Case No. C08-03129 MMC Case No. C08-04234 MMC (consolidated with Case No. C08-03129 MMC)</p> <p>[PROPOSED] ORDER GRANTING MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT FILED BY BIOLITEC, INC.</p>
<p>TYCO HEALTHCARE GROUP LP d/b/a VNUS MEDICAL TECHNOLOGIES, Plaintiff, vs. TOTAL VEIN SOLUTIONS, LLC. d/b/a TOTAL VEIN SYSTEMS, Defendants.</p>	<p>Date: July 30, 2010 Time: 9:00 a.m. Judge: The Hon. Maxine M. Chesney</p>

Defendant biolitec, Inc. filed a Motion for Summary Judgment of Non-Infringement pursuant to Rule 56 of the Federal Rules of Civil Procedure and Civil Local Rules 7 and 56, respectfully requesting that the Court enter Judgment regarding claims 1, 2, and 18-21 of U.S. Patent No. 6,258,084; claims 1, 2, and 7 of U.S. Patent No. 6,752,803; claims 1 and 10 of U.S. Patent No. 6,769,433; claims 1, 2, 7, 12, and 21-25 of U.S. Patent No. 7,396,355; and claims 1-3, 8, 9, 13, 15, 17, and 19-20 of U.S. Patent No. 7,406,970 (collectively "Asserted Claims") as follows:

- biolitec is not liable for contributory infringement of any of Plaintiff's Asserted Claims.
- biolitec is not liable for inducing infringement of any of Plaintiff's Asserted Claims. In the alternative, biolitec requests summary adjudication that doctors using biolitec's accused products do not necessarily infringe Plaintiff's Asserted Claims, and therefore that Plaintiff must (1) prove specific acts of direct infringement that were induced by biolitec and (2) base its claim for damages on the proven number of such acts of direct infringement, rather than seeking damages based on total sales of particular accused products.

Having considered the motions, papers and evidence submitted by the parties, biolitec's Motion for Summary Judgment of Non-Infringement is GRANTED.

Dated: _____, 2010

By _____
The Honorable Maxine M. Chesney